

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
(U 39 E) for Authority to Increase Revenue
Requirements to Recover the Costs to Replace
Steam Generators in Units 1 and 2 of the Diablo
Canyon Power Plant.

Application 04-01-009
(Filed January 9, 2004)

**ASSIGNED COMMISSIONER AND ADMINISTRATIVE LAW JUDGE'S
RULING DENYING MOTION REQUESTING AUTHORIZATION TO SIGN
CONTRACTS AND RECOVER CANCELLATION COSTS**

Concurrent with the filing of this application, Pacific Gas and Electric Company (PG&E) filed a motion requesting an interim decision: (1) authorizing it to sign contracts for the design, fabrication, testing and delivery of replacement steam generators for its Diablo Canyon Power Plant, and (2), if the Commission decides that the steam generator replacement project (SGRP) should not proceed, authorizing full recovery of all costs reasonably incurred as a result canceling the SGRP.

PG&E represents that the fundamental question is whether it is reasonable and prudent, based on currently available information, for it to enter into procurement contracts in June 2004 to preserve the 2008/9 replacement option. PG&E argues that granting its request would not prejudice the application, and merely preserves its ability to proceed with the SGRP as planned if it is approved.

Traditionally, a utility builds a project, and then requests its inclusion in rate base. Whether it is included in rate base depends on the need for the project.

If it is needed, then the reasonable costs of construction are included. To determine the need for the project and the reasonable costs, the utility's actions and expenditures are evaluated based on the information that could and should have been available to the utility at the time the project was constructed.

In this application, PG&E is proposing to construct the SGRP, and is requesting approval of the reasonableness of the SGRP in advance of actual construction. It is also requesting that the Commission set a cost for the SGRP that will carry with it a presumption of reasonableness. Entering into the contracts is one of the first steps in the SGRP. The information provided in its application is represented to be the information upon which PG&E is basing its proposal to proceed with the SGRP, and to enter into the contracts. Despite this representation, it is not a given that all information that PG&E could and should have in order for it to make these decisions, or for the Commission to give its approval, is included in the application.

PG&E seems to divorce the reasonableness of its proposal to enter into the contracts from the reasonableness of the SGRP as a whole. PG&E apparently believes that in considering the reasonableness of entering into the contracts, only the information that PG&E included in the application should be considered. PG&E is incorrect. There may be information that was not included in the application that is relevant to the consideration of the reasonableness of entering into the contracts. To this end, it is important to develop a record that includes, as much as possible, all such information. This means that other parties must be allowed to perform their own investigations, and to present what they believe to be relevant information at hearings. The only difference between consideration of entering into the contracts as opposed to the SGRP as a whole, is that the information to be considered regarding the contracts is limited to the

information PG&E could and should have had prior to entering into the contracts. This limitation does not apply to consideration of the SGRP as a whole in this proceeding.

If the Commission were to approve entering into the contracts at this time, it would be acting without a full record on which to base its decision. PG&E proposes to enter into the contracts in June 2004. Evidentiary hearings on the SGRP are scheduled to begin in late August 2004. As a result, there is not likely to be a significant difference in the amount of information to be considered regarding the contracts versus the SGRP as a whole. Therefore, the most expeditious way to complete consideration of entering into the contracts is to proceed with hearings on the SGRP as currently scheduled.

Therefore, **IT IS RULED** that:

1. The motion of Pacific Gas and Electric Company (PG&E) for an order authorizing it to enter into contracts for replacement steam generators for its Diablo Canyon Power Plant and, in the event the Commission does not approve the project, allowing full recovery of all costs reasonably incurred as a result canceling the project, is denied.
2. Nothing in this ruling prevents PG&E from entering into the contracts, or applying for recovery of cancellation costs if the need arises.

Dated May 5, 2004, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown
Assigned Commissioner

/s/ JEFFREY P. O'DONNELL

Jeffrey P. O'Donnell
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Assigned Commissioner and Administrative Law Judge's Ruling Denying Motion Requesting Authorization to Sign Contracts and Recover Cancellation Costs on all parties of record in this proceeding or their attorneys of record.

Dated May 5, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.